

City Council Introduction: **Monday**, August 4, 2003
Public Hearing: **Monday**, August 11, 2003, at **5:30 p.m.**

Bill No. 03-127

FACTSHEET

TITLE: **MISCELLANEOUS NO. 03008**, requested by the Director of Planning, to amend Title 14 of the Lincoln Municipal Code, to amend the procedure for vacation of public ways and establish a filing fee. Amending Chapter 14.20, and adding a new § 14.20.030.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 08/06/03
Administrative Action: Anticipated 08/06/03

STAFF RECOMMENDATION: Approval.

RECOMMENDATION: Not available until 08/06/03.

ASSOCIATED REQUESTS: Change of Zone No. 3415 (03-125), Miscellaneous No. 03005 (03-126), and Miscellaneous No. 03007 (03R-215).

FINDINGS OF FACT:

1. As part of the Planning Department 2003-04 budget submittal and deliberations, the Director of Planning has submitted proposed text amendments to Title 14: Chapter 14.20: Vacation of Public Ways (**Miscellaneous No. 03008**), Title 26: Land Subdivision Ordinance (**Miscellaneous No. 03005**) and Title 27: Zoning Ordinance (**Change of Zone No. 3415**) to increase application fees for zoning and subdivision applications and petitions to vacate public ways; and to amend certain procedures in processing of zoning and subdivision applications and petitions to vacate public ways. The Director of Planning has also proposed a fee for requests to amend the Comprehensive Plan (**Miscellaneous No. 03007**).
2. The staff recommendation to approve the proposed amendments to Title 14, Chapter 14.20 (Vacation of Public Ways), is based upon the "Analysis" as set forth on p.2-3, concluding that the petition will be processed similarly to subdivision and zoning applications, notice of public hearings will be provided, and some of the cost of processing the application will be covered by the fee.
3. This application is scheduled for public hearing and action by the Lincoln City-Lancaster County Planning Commission on August 6, 2003. The minutes and recommendation of the Planning Commission will be submitted to the City Council for distribution with Council packets on Thursday, August 7, 2003, under separate cover.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: July 29, 2003

REVIEWED BY: _____

DATE: July 29, 2003

REFERENCE NUMBER: FS\CC\2003\MISC.03008

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for August 6, 2003 PLANNING COMMISSION MEETING

P.A.S.: Miscellaneous #03008

PROPOSAL: Require petitions for the vacation of streets and alleys to be filed in the Planning Department and charge a fee.

CONCLUSION: The petition will be processed similarly to subdivision and zoning applications, notice of public hearings will be provided, and some of the cost of processing the application will be covered by the fee.

<u>RECOMMENDATION:</u>	Approval
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LEGAL DESCRIPTION:

Chapter 14.20, Vacation of Public Ways of the LMC

ANALYSIS:

At this time, the City Clerk is required by ordinance to receive petitions for vacating street or alley right-of-way. The Clerk opens a file, has Law review the legal description, then sends the file to Public Works for review, and Public Works send the file to Planning. Planning then advertises the Planning Commission hearings, and processes the petitions through the hearing process. This proposal would shorten the process by initiating it with Planning.

Planning would also plan to handle the process differently. At present, any one abutting property owner can file a petition to vacate a street or alley. However the ordinance requires all abutting property owners to file a petition before the City can approve the vacation. Many times the remaining abutting property owners will not file their petitions in a timely manner or not at all. The City has created a file for the petition that may never proceed. Also ownership of the abutting property may change during an extended period of time.

The proposed procedure would require the application to include signed petitions from all abutting owners and ownership certificates. The Planning Department would distribute the application to Law, Public Works & Utilities, and other departments, Lincoln Electric System and other utility companies for their review and comment.

The proposal would provide for notifying property owners surrounding the proposed vacation of the public hearings. At the present time the only notice is the Planning Commission's printed agenda.

The proposed fee is to cover the legal notice in the newspaper and mailings, and some of the staff time to process the application.

Attached is the proposed language in legislative form.

Prepared by:

Ray Hill Planner

DATE: July 24, 2003

APPLICANT:

Director of Planning Marvin S. Krout

CONTACT:

Ray Hill, Planning Department
555 South 10th Street
Lincoln, Ne 68508
441-6371, rhill@ci.lincoln.ne.us

Chapter 14.20
VACATION OF PUBLIC WAYS

Sections:

- 14.20.010** **Copy of Vacation Ordinance to Taxing Official; Property Placed on Tax Rolls; Supplementary Definitions.**
- 14.20.020** **Procedure for Vacation of Public Ways; Filing Vacation Ordinance.**
- 14.20.030** **Notice of Public Hearing.**
- 14.20.040** **Fees.**

14.20.010 Copy of Vacation Ordinance to Taxing Official; Property Placed on Tax Rolls; Supplementary Definitions.

Upon the vacation of any street, alley, or public way by the City Council, the City Clerk shall forthwith furnish to the appropriate taxing official for the City of Lincoln a certified copy of the ordinance vacating such street, alley or public way.

The taxing official shall forthwith place such vacated street, alley or public way upon the tax rolls of the city.

Street, alley, and public way as used in this chapter shall include but not be limited to, streets, alleys, and public ways not actually being publicly maintained or not actually, physically open to the use of the public. (Ord. 9970 §2; May 4, 1970: prior Ord. 3968 §1; July 3, 1944).

14.20.020 Procedure for Vacation of Public Ways; Filing Vacation Ordinance

For the vacation of any street, alley, or public way, the owners of 100% of the property abutting upon such street, alley, or public way proposed to be vacated shall file with the ~~City Clerk~~ Planning Director a petition for such proposed vacation upon forms approved by the City Attorney. Upon receipt of said petition, the Planning Director shall refer the proposed vacation to the Planning Commission. The Planning Commission shall hold a public hearing upon the proposed vacation and make a report regarding its conformity to the Comprehensive Plan. The report of the Planning Commission, along with a report from the Planning Director ~~Before passing an ordinance for the vacation of any street, alley, or public way, the City Council shall require reports from the executive branch of the city as to how such proposed vacation would affect the City's planning, street system, traffic requirements, public utilities, and public improvements, shall be filed with the City Council. The Planning Director's report shall include information as to whether any sidewalk bonds are still outstanding and shall include the estimated cost of any required reconstruction of street and alley returns and/or sidewalks, and the cost of relocating any existing utilities, such as telephone facilities, electrical facilities, water mains, sanitary sewers, etc. The report shall also include the amount determined by the city to be the property price to be paid by a purchaser for such street, alley, or public way sought to be vacated, or in the alternative, a recommended exchange of property with the city. After the reports of the Planning Commission and the Planning Director have been filed, the City Council shall, before enacting any ordinance vacating the street, alley, or public way proposed to be vacated, hold a public hearing in relation thereto.~~

The petitioners shall be required to deposit the money necessary to accomplish the required reconstruction and the amount determined to be the proper purchase price prior to the introduction of an ordinance to accomplish the requested vacation. Such funds deposited with the City Clerk will be

1 held until the vacation has become effective, at which time the amount deposited for the necessary
2 reconstruction shall be deposited by the City Clerk in the street construction fund to accomplish the
3 required reconstruction. Net proceeds paid to the city for the purchase of a vacated street, alley, or
4 public way shall be placed in the advance acquisition fund.

5 Upon the passage of any ordinance vacating a street, alley, or public way in the City of Lincoln,
6 it shall be the duty of the City Clerk to immediately file a certified copy of said ordinance in the office
7 of the Register of Deeds for Lancaster County, Nebraska.

8 This section shall not be interpreted so as to interfere with the city's request for vacation of a
9 street, alley, or public way when the City Council has deemed such vacation to be in the best interest
10 of the city. (Ord. 13059 §1; December 15, 1980: prior Ord. 8752 §1; June 14, 1965).

11

12 **14.20.030 Notice of Public Hearing**

13 Public hearings required to be held by the Planning Commission and City Council under this
14 chapter shall not be held until notice thereof has been given in compliance with the following provisions:

15 (a) At least eight days before the date of hearing, the City Clerk shall have published in a
16 daily newspaper having a general circulation in the City of Lincoln a notice of time, place and subject
17 matter of the public hearing.

18 (b) At least ten days before the date of hearing, the Planning Director shall cause notice of
19 the proposed vacation to be sent to

20 (i) the petitioners

21 (ii) to the record owners of property located within 200 feet of the proposed vacation
22 when such owners' property is located within the corporate limits of the City and to the record owners
23 of property located within one-fourth mile of the proposed vacation when such owners' property is
24 located outside the corporate limits of the City. Such notice shall be sent by regular United States mail,
25 postage prepaid, to each petitioner and each such record owner of property at the address as it
26 appears on the last equalized assessment roll of the county or as known to the Planning Director.

27 (c) No decision or recommendation which is required to be made under this chapter shall
28 be void or invalidated or affected in any way for any irregularity, defect, error, or failure on the part of
29 the Planning Director to cause notice to be given as required in subsection (b) above.

30 (d) It shall not be necessary to give further notice of an adjourned or continued public
31 hearing.

32 (e) Other notice, as may be deemed appropriate by the public body conducting the hearing,
33 may be given in advance of public hearings. Such notice is not mandatory or required as a condition
34 precedent to any such public hearing.

35

36 **14.20.040 Fees.**

37

38 An application fee of \$125.00 shall be charged at the time of filing an application for a vacation
39 of public ways.

Lincoln



Nebraska's Capital City

Mayor Coleen J. Seng

July 16, 2003

To: Development Community

RE: Amendments to application fees and subdivision procedures

The Planning Department, in our budget submission for the fiscal year beginning this September, indicated that it was timely to revisit application fees for zoning and subdivision regulations. The fees were last amended in 1999. We estimated that these fees could be increased by about 25 percent on average, which would generate an additional \$40,000.00 in revenue.

The City's Finance Department included this revenue increase in the Mayor's proposed budget, and requested that we submit amendments to application fees on the same day as the City Council hears the proposed City budget for the next year. This requires the amendments, which are contained in the city zoning and subdivision ordinances, to be scheduled for public hearing before the Planning Commission on August 6, 2003 and acted on the same day. To reflect a fairness and equity across the board and avoid confusion, we will initiate companion amendments to the Lancaster County zoning and subdivision resolutions, to run in tandem.

Since the Planning Department must go through the Planning Commission to amend ordinances that contain application fees, we thought it would be a good opportunity to bring forward some additional ordinance amendments that we have been discussing, which will help streamline the development review process. That way, you will see some immediate service improvements in return for the increased fees. The Planning Department plans to work with the development community on a more extensive list of streamlining ideas in the future. But, we have been able to put together this set of amendments in a short timeframe, and we believe it will provide a significant reduction in processing time for many applications. We will also be discussing process options with the Lancaster County Board to see if there might be additional streamlining opportunities available.

The attached page highlights key changes to the fees and procedures that the Planning Department is proposing. The text for the proposed amendments will be available next week and will be placed on the department's webpage (www.ci.lincoln.ne.us/city/plan/fees/index.htm). If you have any questions or would like additional information, or you would like me or one of our planners to come out to a meeting and discuss these proposals, please contact me or Ray Hill in the department. I apologize for this short notice time, and promise that we will give you more review time in the future.

Sincerely,

A handwritten signature in black ink, reading "Marvin S. Krout". The signature is fluid and cursive, with the first name "Marvin" being more prominent.

Marvin S. Krout
Director of Planning

cc: Mayor Seng, Ray Hill, Allan Abbott, Rick Peo
Attachment



(Attachment)

Highlights of proposed fee adjustments

- Fees for changes of zone, use permits, special permits, changes in the text of the zoning ordinance, preliminary plats, final plat, and administrative plats will be increased by approximately 25 percent
- The current fee for a "combined use permit and permitted special use" is proposed to be deleted, and we will no longer require the combined permit. Special permitted uses in the use permit districts will be processed the same as a special permit in other districts.
- A new fee is proposed to cover the cost of the required re-advertising for applications that have been postponed for an indefinite period at the applicant's request.
- The "Subdivision Promotion Activity Permit" fee is proposed to be deleted, since staff does not issue permits of this type.

Highlights of proposed procedural changes

- All preliminary plats that do not involve waivers will be approved by the Planning Commission, and only submitted to the governing body on appeal (currently, all preliminary plats must go through the Planning Commission to the City Council or County Board for approval, unless the requirement for a preliminary plat is waived because a special permit for a Community Unit Plan, which can substitute for a preliminary Plat, is submitted with the waiver request, and those CUPs must be approved by the City Council or County Board with the waiver).
- All final plats that do not involve waivers will be approved by the Planning Director, and only submitted to the Planning Commission on appeal (currently, all final plats must be placed on the Planning Commission agenda for approval in the City's jurisdiction, and must go through the Planning Commission to the County Board in the County's jurisdiction).
- Plans for street trees will be submitted for approval with final plats, rather than being required for preliminary plat (standards for street tree requirements are uniform for all subdivisions, and it is more appropriate to prepare detailed design plans like this at the final stage of platting).
- Petitions for vacating street and alley rights of way will be submitted to the Planning Department, rather than to the City Clerk (currently, petitions are submitted to the Clerk, who routes them to Law and then to Public Works, who routes them to Planning, who routes them to other departments for review).

Lincoln



Nebraska's Capital City

Mayor Coleen J. Seng

July 25, 2003

RE: Change of Zone No. 3415, Miscellaneous No. 03005, County Change of Zone No. 215, County Miscellaneous No. 03006, City/County Miscellaneous No. 03007 and Miscellaneous No. 03008
(Proposed Text Amendments to Title 14, Title 26 and Title 27 of the Lincoln Municipal Code, the County Zoning Resolution, the County Subdivision Resolution and a Resolution to collect a fee for requests to amend the Comprehensive Plan)

To Whom it May Concern:

Please be advised that the Director of Planning is proposing the following text amendments to the zoning and subdivision regulations in the City and County:

CITY CHANGE OF ZONE NO. 3415, to amend Title 27 of the Lincoln Municipal Code (the Zoning Ordinance), to increase application fees and to amend certain zoning process procedures. Amending Chapter 27.80 and §§ 27.27.030, 27.28.040, 27.31.050, 27.37.030, and 27.68.090.

CITY MISCELLANEOUS NO. 03005, to amend Title 26 of the Lincoln Municipal Code (the Land Subdivision Ordinance), to increase application fees and to amend certain subdivision process procedures. Deleting §§ 26.11.015 and 26.11.017; and amending §§ 26.11.020, 26.11.037, 26.11.038, 26.11.050, 26.11.060, 26.11.070, 26.11.130, 26.15.020, 26.19.020, 26.19.035, and Chapter 26.33.

COUNTY CHANGE OF ZONE NO. 215, to amend Article 23 of the Lancaster County Zoning resolution, to increase application fees for various zoning actions. Amending §§ 23.003, 23.005, 23.007, 23.009, 23.011, 23.013, 23.015, 23.017, 23.019, and adding § 23.023.

COUNTY MISCELLANEOUS NO. 03006, to amend Chapter 3 of the Lancaster County Subdivision resolution, to increase application fees for various subdivision actions. Amending §§ 3.02(n), 3.05, 3.15, 3.18, 3.19, 3.20, and adding a new § 3.21.

CITY/COUNTY MISCELLANEOUS NO. 03007, a resolution adopted by the City Council and County Board authorizing the collection of a fee for amendment requests to the City/County Comprehensive Plan.

CITY MISCELLANEOUS NO. 03008, to amend Title 14 of the Lincoln Municipal Code, to amend the procedure for vacation of public ways and establish a filing fee. Amending Chapter 14.20, and adding a new § 14.20.030.

The public hearing on these proposed text amendments will be held before the Lincoln City/Lancaster County Planning Commission on **Wednesday, August 6, 2003**. The public hearing is your opportunity to appear and speak upon the merits of these applications. The Planning Commission meeting commences at 1:00 p.m. in the City Council Hearing Room on the first floor of the County-City Building, 555 South 10th Street, Lincoln, Nebraska.

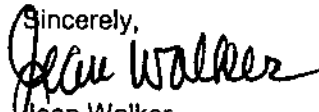


City Change of Zone No. 3415
City Miscellaneous No. 03005
County Change of Zone No. 215
County Miscellaneous No. 03006
City-County Miscellaneous No. 03007
City Miscellaneous No. 03008

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July 25, 2003

If you would like additional information, you are encouraged to contact Ray Hill in the Planning Department (401-441-6371). You may also wish to appear at the public hearing or submit your comments prior to the public hearing in writing to the Planning Commission at the address below, by email to plan@ci.lincoln.ne.us, or by fax to 402-441-6377. The Planning Department staff report including the proposed text amendments and the staff recommendation will be available in the Planning Department office on Thursday, July 31, 2003, after 3:00 p.m., as well as on the Internet (<http://www.ci.lincoln.ne.us/city/plan/pcagenda/2003/index.htm>).

This notice is being provided as a courtesy to the Planning Department's development community contact list and neighborhood and homeowner association contact list.

Sincerely,

Jean Walker
Administrative Officer

x:\files\planning\pc\notif\2003\cz.3415

cc: Development Community Mailing List
Carol Brown, Chair, Mayor's Neighborhood Roundtable, 2201 Elba Circle, 68521
Neighborhood and Homeowner Association Contact Mailing List
Lincoln-Lancaster County Planning Commission
Mayor Coleen Seng
City Council
Lancaster County Board of Commissioners

Marvin S Krout

07/22/03 08:18 AM

To: Rick Krueger
cc: rhill@ci.lincoln.ne.us
Subject: Proposed fee increases

Rick: Ray Hill forwarded your note to me, and I would like to respond directly. By the way, I did return your call from last week, and did not hear back from you -- please let me know if you want to get together to discuss fees and/or any other subject, and I would be glad to do it.

I had asked for information on the history of our application fees as we were preparing our budget for this next fiscal year. As you probably recall, fees were approximately doubled in advance of fiscal year 99-00. City fees in fiscal year 97-98 generated about \$80,000 in revenue. The fee increases were intended to raise another \$76,000, which is 80% (City portion) of the \$95,000 cost of additional staffing that was approved in that same budget. The staffing cost included two new positions in our department, plus a portion of the Health Department budget for their assistance in reviewing applications. If you take \$80,000 plus \$76,000 = \$156,000, and apply a 10% cost of living increase, then we should be generating over \$170,000 this year from City applications.

Looking at the current year (02-03) budget, we have generated just under \$130,000 through 7-14, with just under \$117,000 coming from City applications. I would surmise that City fees will generate about \$130,000 by the end of this year. So we are about \$40,000 behind on the intention of the fee increases from 4 years ago.

I am sure there is still great sensitivity about fees of any kind with members of the development community. But I think you would have to admit that a 25% increase in application fees for zoning and subdivision items will not have a significant effect on housing costs. I would estimate that zoning and subdivision fees might add up to \$15-20 per single family lot today, so the increase would just add \$4-5 per lot to your costs.

I think it's also important to realize that these charges are still a very small proportion of the total costs of processing zoning and subdivision applications. Salary/benefit costs for Ray and Theresa McKinstry and the 5 planners in his division add up to \$323,000 in the proposed budget, which is twice the amount of fees that we expect to generate this year from City and County applications. Add to that the cost of additional staff involved in application review and processing (me, Jean Walker, Steve Henrichsen, and a good portion of the GIS staff time involved in the notification process and map-making), plus the costs of mailing, printing, advertising, supplies and equipment, etc., and the fees probably generate only 20% of our department's actual costs. And then add to that the staff time and miscellaneous costs in other departments, besides Health, who are involved in reviewing zoning and subdivision applications -- in Public Works, Law, and the Clerk's office, to name a few.

When I briefed the two elected boards on our budget last week, one of the Councilmembers noted that in some situations, our proposals to streamline the development review process will reduce our current collections, e.g. we are now routinely waiving the requirement to file and process a preliminary plat on projects for which Community Unit Plans are being processed.

I hope that you are more comfortable with this proposal as a result of this explanation. We did not expect that the fee increases would be of great concern to the development community, and I would hope they will not become another source of debate and delay, especially as they are tied to some further streamlining proposals that should reduce development costs much more significantly than these small fee increases. Again I would be happy to meet with you to discuss this further.

Marvin S. Krout, Director
Lincoln-Lancaster County Planning Department

Message for Ray Hill